

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

David M. & Maxine Bartels,
Petitioners-Appellants,

v.

Dickinson County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 10-30-0683
Parcel No. 03-09-204-024

On October 14, 2011, the above-captioned appeal came on for consideration before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Petitioners-Appellants David M. and Maxine Bartels (Bartels) were represented by Attorney Michael J. Houchins, of Zenor and Houchins, P.C., Spencer, Iowa. The Board of Review designated Assistant County Attorney Lonnie Saunders as its legal representative. The parties agreed to this appeal being considered without hearing. Both parties submitted documentary evidence in support of their position. The Appeal Board now having examined the entire record and being fully advised, finds:

Findings of Fact

The Bartels, owner of property located on West McClelland Lane, Spirit Lake, Iowa, appeal from the Dickinson County Board of Review decision reassessing their property. According to the property record card, the subject property consists of a one and one-half-story, frame dwelling with 2169 square feet of living area built in 1983. The dwelling is in normal condition and has a 3-5 quality grade. It is improved by a detached 396 square-foot garage. It is situated on a 0.256 acre site on McClelland's Beach on the north shoreline of Big Spirit Lake.

The improvements are situated on lakeshore Lot 79 on Spirit Lake with 70.36 feet of lake frontage, 82.88 feet of rear frontage, a depth of 144.29 on one side and a depth of 147.00 feet on the

other. The parcel has 73.79 effective front feet, a -7% adjustment for its pie-shape, and a \$5000 per effective front foot.

The real estate was classified as residential on the initial assessment of January 1, 2010, and valued at \$472,500, representing \$322,500 in land value and \$150,000 in improvement value. This was a change from the 2009 assessment.

Bartels protested to the Board of Review on the ground the assessment is not equitable as compared to like properties in the taxing jurisdiction under Iowa Code section 441.37(1)(a), and that the property was assessed for more than authorized by law under section 441.37(1)(b). They sought an assessed value for the land of \$4500 per front foot.

The Board of Review denied the protest. Bartels appealed to this Board asserting the same grounds.

According to the Board of Review, McClelland's Beach was formerly used exclusively as rental real estate by tenant-leaseholders who constructed dwellings which were their personal properties on leased land. In 2007, the McClelland's Beach Subdivision was surveyed and platted. The subdivision received the benefit of the three-year platting law under section 441.72 for assessment years 2007, 2008, and 2009. The adjustments were removed for the 2010 assessments, changing and substantially increasing the property assessments.

Bartels submitted a district court settlement which resolved disputes between the Bartels and the leaseholders of the beach lots. Under the terms of the settlement, Bartels offered the lots for sale to the leaseholders at a standard price of \$5000 per front foot. Subsequently, twenty-four of the lots sold to leaseholders at \$5000 per front foot (Exhibit N). Leaseholders that declined to purchase the leased land were granted lease extensions. Under the leases, the leaseholders were granted a right of first refusal and option to purchase the leased ground during the lease term. The leases set the rent

amounts, a property tax base payable by Bartels, and provided that future tax increases were payable by leaseholders. The leases had a term of eleven years, expiring May 1, 2020.

Bartels submitted an exhibit in the certified record listing the land assessment of other lakefront properties on Martha Yarns and Shore Acres based on both per-linear-foot of shore-frontage values and per-square-foot parcel values. Bartels divided the land assessment by the actual lakefront footage to arrive at per-front-foot values and per-square-foot parcel values. They calculated the average value of lakefront footage at Shore Acres, which has a concrete road, at \$4221, the average at Martha Yarns at \$3500, and the average at McClelland Beach at \$4692. They contend the McClelland lots are small and cannot accommodate larger homes or garages as compared to other subdivisions' lake lots. Bartels report that a zoning ordinance change, which increased the construction set back from 3 feet to 6 feet, coupled with the small lot sizes, restrict construction to small summer cottages and do not allow larger year-round homes. They report 58 of the 146 lots were sold since the subdivision was formally platted in 2007; however, none have sold during the past two years. In brief, Bartels propose three pricing groups for the lakeshore property:

Lot Numbers	Price	Bartels' Comments
78-98	\$4,500	Lots have no easements or road crossing the lots
6-77	\$3,500	Lots have a road easement which makes the back of the lot undevelopable & restricts size of home
1 & 5	\$4,000	Lots Inferior beachfront, but deeper allowing larger home

The Board of Review provided an explanation of the method used for calculating land values based on front footage. The dimensions of the lot were used to calculate the effective front foot of lakeshore by adjusting the actual footage by a depth factor, then multiplying the result by a unit price. The assessor uniformly applied a unit price of \$5000 per *effective* front foot in this lake area, except for off-shoreline lots 109, 110, 111, 112, 113, 115, 120, and 121 to which an \$800 unit price per *effective*

front foot was applied.¹ This figure would then be adjusted if a pie-shaped or other adjustment was needed. Exhibits B and C show the “85-15” method developed and used by the assessor for lakeshore pie-shaped lots. A map factor of 0.94 was applied to this product for all parcels. The following chart summarizes the Board of Review exhibits showing the land assessment of the subject property:

FF	EFF	Unit Price	AV Land	AV per EFF	BOR Adjustment	BOR Land Value	Appellant Value
70.36	73.79	\$ 5,000	\$ 322,500	\$ 4371	None	\$322,500	\$ 316,620

We note Bartels used a different method of calculating the unit values of the properties than used by the assessor. Bartels’ method failed to consider or apply any depth, shape, or map factor to the properties. The assessor considered these factors to calculate *effective* front foot, as opposed to the unadjusted front-foot measurements used by Bartels and the settlement terms.

The Board of Review provided a list of twenty-four land sales that occurred in 2007 and 2008² when the properties were first made available for purchase by leaseholders (Exhibit N). The lots range from 35.23 front feet to 72.99 front feet. Sale prices ranged from \$140,000 to \$364,950, or \$5000 per front foot. The 2010 land assessments for these properties range from \$118,400 to \$325,600, or \$3977 to \$4700 per front foot and a median of \$4367 per front foot. Bartels’ lakeshore lot is assessed at \$4371 per effective front foot, which is within the range of other lakeshore property.

Reviewing the record, we find the preponderance of the evidence does not support the Bartels’ contention their assessment is inequitable. We find the Board of Review’s explanation of land pricing was reasonable and the method was applied uniformly to other lakefront and off-lake lots in Bartels’ area and do not reflect inequitable assessment. Additionally, the sale prices of the leased lots established in the 2007 settlement and the actual sales of McClelland’s waterfront lots do not support Bartels’ claims that the property is assessed for more than authorized by law. Their proposed value is

¹ We note PAAB has considered additional common evidence filed in companion Dockets 10-30-0615 thru 0677, 10-30-0680 and 0684 concerning off-shore lots at McClelland Beach.

² With the exception of one sale from 2004, the list was limited to the 2007 to 2008 time period.

based on unproven assumptions and is not supported by competent evidence of the fair market value of the property. We believe the preponderance of the evidence fails to prove inequitable assessment or over-assessment of Bartels' property as of January 1, 2010.

Conclusion of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2011). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the

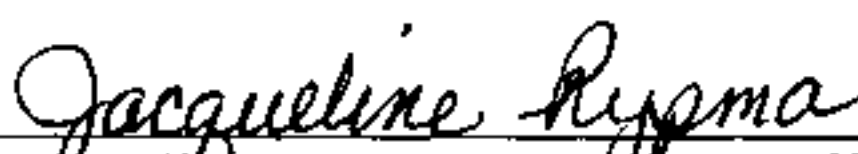
property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shriver*, 257 Iowa 575, 133 N.W.2d 709 (1965). The gist of this test is ratio difference between assessment and market value, even though Iowa law now requires assessments to be 100% of market value. § 441.21(1). Bartels failed to prove inequity under either of these methods.

In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). But this Board must be presented with more than just general assertions of what affects market value. We must look at market data to determine whether the property is assessed for more than authorized by law. In this instance, Bartels did not present any quantifiable data to show their property was over-assessed. The Board of Review presented sales of comparable properties that showed the subject property was not over-assessed. We find Bartels failed to provide sufficient proof their property is over-assessed and they failed to provide proof of the fair market value of the subject property.

Viewing the record as a whole, we determine the preponderance of the evidence does not support the Bartels' claims of inequitable assessment and over-assessment as of January 1, 2010.

THE APPEAL BOARD ORDERS the January 1, 2010, assessment as determined by the Dickinson County Board of Review is affirmed.

Dated this 7 day of December 2011.


Jacqueline Rypma, Presiding Officer


Karen Oberman, Board Member


Richard Stradley, Board Chair

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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>12-7</u> , 201 <u>1</u>	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	<u><i>Lonnie Saunders</i></u>